

REMARKS

Formal Matters

Claims 1-37 are pending in the application. Claims 1-37 are hereby amended.

The Examiner has initialed the information disclosure statement (IDS) submitted on September 22, 2003.

Applicant respectfully requests that the Examiner acknowledge receipt of the priority documents submitted on September 22, 2003.

Allowable Subject Matter

The Examiner states that claims 10 and 25 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. Applicant respectfully holds in abeyance the rewriting of these claims pending further prosecution with respect to their parent claims.

Claim Objections

The Examiner objects to claims 14 and 29 under 37 C.F.R. § 1.75(c) as allegedly being in improper form. Applicant directs the Examiner to the Preliminary Amendment filed on September 18, 2003, in which claims 14 and 29 were amended. Based on these preliminary amendments to claims 14 and 29, Applicant respectfully requests that the Examiner withdraw the objection.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-37 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant traverses this rejection for at least the following reasons.

Claims 1-37 are hereby amended in the interest of further clarity and improved conformance with U.S. claim style. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of these claims. Applicant further addresses particular issues not requiring amendment as follows:

Regarding claims 6 and 7, Applicant notes the following explanatory portions of the Manual of Patent Examining Procedure:

The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. Seattle Box Co., v. Industrial Crating & Packing, Inc., 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.

...
The term “substantially” is often used in conjunction with another term to describe a particular characteristic of the claimed invention. It is a broad term. In re Nehrenberg, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation “to substantially increase the efficiency of the compound as a copper extractant” was definite in view of the general guidelines contained in the specification. In re Mattison, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation “which produces substantially equal E and H plane illumination patterns” was definite because one of ordinary skill in the art would know what was meant by “substantially equal.” Andrew Corp. v. Gabriel Electronics, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).

MPEP § 2173.05(b) (8th ed. Rev. 5, Aug. 2006).

In this instance, the term “substantially greater,” similar to the terms “substantially increase” and “substantially equal” quoted in the above portion of the MPEP, would be clearly understood by one of ordinary skill in the art in light of the specification. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 6 and 7.

Regarding claim 7, Applicant respectfully submits that the phrase “the whole of each intercepted control packet” does not lack proper antecedent basis, because each packet comprises only one “whole” or entire packet. The use of the definite article in this instance is, therefore, proper and grammatical. Accordingly, Applicant respectfully request that the Examiner withdraw the rejection of claim 7.

Regarding claim 37, Applicant respectfully submits that the phrase “the COPS and SNMP protocols” does not lack proper antecedent basis, because the COPS and SNMP protocols are names of specific protocols which, therefore, require the use of the definite article in this instance. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claim 37.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 2, 15-17 and 31-36 stand rejected by the Examiner under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent No. 6,529,475 to Wan et al. (“Wan”). Applicant traverses this rejection for at least the following reasons.

Amended claim 1 requires “duplicating at least part of each of said control packets.” The Examiner contends that this element of claim 1 is taught by Wan at col. 8, lines 21-37. Although this portion of Wan states that “monitors send the information received from the RTC packets to central server 112,” Wan does not describe “duplicating” any portion of the RTC packets. Since Wan only appears to state that the monitors send the information received from the RTC packets “via some transport/connection means 111 such as bus link or other communication channel,” Wan fails to teach that this information is a “duplicated part of each of said control packets” as required by claim 1. Moreover, it is clear in light of the above that, claim 7 and similar claims,

for example, also are not taught by Wan, as claim 7 requires that “the whole of each interceptive control packet . . . is duplicated.”

Thus, Wan fails to teach or suggest each and every element of amended claim 1, and therefore, fails to anticipate claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1 and its dependent claims 2 and 15.

Independent claim 16 recites features analogous to those of independent claim 1. Claim 16 is therefore also patentable at least for reasons analogous to those presented above with respect to claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 16 and its dependent claims 17 and 31-36.

Claim Rejections Under 35 U.S.C. § 103

Wan in view of Kohler, Jr.

Claims 3 and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl’n Publ’n No. 2002/0032774 to Kohler Jr. et al. (“Kohler”). Applicant traverses this rejection for at least the following reasons.

Claims 3 and 18 depend indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Kohler, moreover, fails to make up for the above described deficiencies of Wan, as Kohler is cited merely for its alleged teaching of sampling packets every “in” packets. Thus, even in combination, Wan and Kohler fail to teach or suggest each and every element of claims 3 and 18. These references, therefore, fail to render claims 3 and 18 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Bar

Claims 4, 5, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent No. 6,122,665 to Bar et al. (“Bar”). Applicant traverses this rejection for at least the following reasons.

Claims 4, 5, 19 and 20 depend indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Bar, moreover, fails to make up for the above described deficiencies of Wan, as Bar is cited merely for its alleged teaching of the features additionally recited in these dependent claims. Thus, even in combination, Wan and Bar fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 4, 5, 19 and 20 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Grabelsky

Claims 6-9, 11, 12, 21-23, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent No. 6,678,250 to Grabelsky et al. (“Grabelsky”). Applicant traverses this rejection for at least the following reasons.

Claims 6-9, 11, 12, 21-23, 25 and 26 depend directly or indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Grabelsky, moreover, fails to make up for the above described deficiencies of Wan, as Grabelsky is cited merely for its alleged teaching of the features additionally recited in these dependent claims. Thus, even in combination, Wan and Grabelsky fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 6-9, 11, 12, 21-23, 25 and 26 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Roh

Claim 37 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl'n Publ'n No. 2004/0148417 to Roh et al. ("Roh"). Applicant traverses this rejection for at least the following reasons.

Claim 37 depends indirectly from independent claim 16. The deficiencies of Wan with respect to independent claim 16 are demonstrated above. Roh, moreover, fails to make up for the above described deficiencies of Wan, as Roh is cited merely for its allegedly teaching of the features additionally recited in claim 37. Thus, even in combination, Wan and Roh fail to teach or suggest each and every element of claim 37. These references, therefore, fail to render claim 37 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

Wan in view of Hepworth

Claims 6-9, 11, 12, 21-23, 25 and 26 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl'n Publ'n No. 2003/0120789 to Hepworth et al. ("Hepworth"). Applicant traverses this rejection for at least the following reasons.

Claims 6-9, 11, 12, 21-23, 25 and 26 depend directly or indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Hepworth, moreover, fails to make up for the above described deficiencies of Wan, as Hepworth is cited merely for its alleged teaching of the features additionally recited in these dependent claims. Thus, even in combination, Wan and Hepworth fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 6-9, 11, 12, 21-23, 25 and 26 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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